



# State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Tommy G. Thompson, Governor  
George E. Meyer, Secretary

Appleton Field Station  
Agricultural Services Center  
3369 W. Brewster Street  
Appleton, Wisconsin 54914-1602  
Telephone 920-832-1803  
FAX 920-832-1800

August 17, 2000

Mr. Mark Grishaber  
Tom's Drive In Central, Inc.  
701 E. Wisconsin Avenue  
Appleton, WI 54911-4929

Subject: Case Closure with A Groundwater Use Restriction, Tom's Drive In, 701 E. Wisconsin Avenue, Appleton, Wisconsin, WDNR BRRTS ID# 03-45-001997

Dear Mr. Grishaber:

On October 22, 1999, the above-named site was reviewed by the Northeast Region Closure Committee for a determination as to whether or not the case qualified for closeout under ch. NR 726, Wis. Adm. Code. The committee agreed that this case could be closed pending the filing of a groundwater use restriction with the deed running with the property.

On July 7, 2000, we received abandonment documentation for all site monitoring points except monitoring well MW-3. When this monitoring point is located, you are responsible for its proper abandonment and you must provide abandonment documentation to the Department, as required by ch. NR 141, Wis. Adm. Code. We have also received a copy of the completed groundwater use restriction for this site and proof of filing with the Outagamie County Register of Deeds. Based on the investigative and remedial documentation provided to the Department and the filing of the groundwater use restriction, it appears that the petroleum contamination at the above-named site has been remediated to the extent practicable under current site conditions. Therefore, closure of this site has been granted and no further action is necessary at this time. In the future, this deed restriction may be amended with approval from the Department if conditions change at the site and the residual contamination has been remediated. If you have any additional relevant information that was not formerly provided to the Department, you should submit this information to the Department for evaluation. If you have any questions regarding this determination, please contact me at (920) 832-1803.

Sincerely,

Jennifer Huffman, P.G.  
Hydrogeologist  
Remediation and Redevelopment Program

cc: Christopher Ewald, P.G. – ECCI, P.O. Box 1612, Oshkosh, WI 54902-1612  
Christopher Sitzmann – Christopher G. Sitzmann Ltd., Zuelke Building, 103 E. College Avenue, Appleton, WI 54911

AMERICAN  
120965

J 15620 I 40

## WARRANTY DEED

OUTAGAMIE 1120388

THIS DEED, made between Thomas C. Grishaber and Corinne E. Grishaber, husband and wife, as survivorship marital property, an undivided one-half (1/2) interest as tenants in common, and Mark C. Grishaber and Joanne M. Grishaber, husband and wife, as survivorship marital property, an undivided one-half (1/2) interest as tenants in common, GRANTOR, and Tom's Drive-In Central, Inc., a Wisconsin corporation, GRANTEE.

WITNESSETH, that the said Grantor, for a valuable consideration conveys to Grantee the following described real estate in Outagamie County, State of Wisconsin:

The East 10 feet of Lot Four (4), and all of Lot Five (5), and the West 20 feet of Lot Six (6), in Block One (1), of JOHNSON'S ADDITION, City of Appleton, Outagamie County, Wisconsin, according to the recorded Assessor's Map of said City

Tax Parcel No. 31-1-0004

FEE  
15  
EXEMPT

This is not homestead property.

Together with all and singular the hereditaments and appurtenances thereunto belonging:

And said Grantor warrants that the title is good, indefeasible in fee simple and free and clear of encumbrances except municipal and zoning ordinances, recorded easements for public utilities serving the property, recorded building and use restrictions and covenants, and general taxes levied in the year of closing, and will warrant and defend the same.

Dated February 28<sup>th</sup>, 1994.

Thomas C. Grishaber (SEAL)  
Thomas C. Grishaber

Mark C. Grishaber (SEAL)  
Mark C. Grishaber

Corinne M. Grishaber (SEAL)  
Corinne M. Grishaber

Joanne M. Grishaber (SEAL)  
Joanne M. Grishaber

### AUTHENTICATION

Signature(s) of Thomas C. Grishaber, Mark C. Grishaber, Corinne M. Grishaber and Joanne M. Grishaber authenticated this 28<sup>th</sup> day of February, 1994.

  
David J. Van Lieshout  
TITLE: MEMBER STATE BAR OF WISCONSIN

This instrument drafted by  
David J. Van Lieshout, Attorney at Law  
P.O. Box 186  
Little Chute, WI 54140-0186

RECORD AND RETURN TO:  
Attorney David J. Van Lieshout  
P.O. Box 186  
Little Chute, WI 54140-0186

J 15641 I 23

OUTAGAMIE 1120963  
Document #

## WARRANTY DEED

OUTAGAMIE COUNTY  
RECEIVED FOR RECORD

APR 25 1994

AT 8:30 O'CLOCK A.M. P.M.  
GRACE HERB  
REGISTER OF DEEDS

pd  
10/10  
form

THIS DEED, made between Thomas C. Grishaber and Mark C. Grishaber, each an undivided one-half interest as tenants-in-common, GRANTOR, and Tom's Drive-In Central, Inc., a Wisconsin corporation, GRANTEE,

WITNESSETH, that the said Grantor, for a valuable consideration conveys to Grantee the following described real estate in Outagamie County, State of Wisconsin:

All of Lots One (1), and Two (2), and the West Ten (10) feet of Lot Three (3), in Block One (1), of JOHNSON'S ADDITION, City of Appleton, Outagamie County, Wisconsin.

Tax Parcel No.

Fee  
15  
EXEMPT

This is not homestead property.

Together with all and singular the hereditaments and appurtenances thereunto belonging;

And said Grantor warrants that the title is good, indefeasible in fee simple and free and clear of encumbrances except municipal and zoning ordinances, recorded easements for public utilities serving the property, recorded building and use restrictions and covenants, and general taxes levied in the year of closing, and will warrant and defend the same.

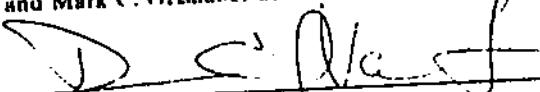
Dated April 20, 1994.

  
Thomas C. Grishaber (SEAL)

  
Mark C. Grishaber (SEAL)

### AUTHENTICATION

Signature(s) of Thomas C. Grishaber and Mark C. Grishaber authenticated this 25 day of April, 1994.

  
David J. Van Lieshout  
TITLE: MEMBER STATE BAR OF WISCONSIN

RECORD AND RETURN TO:  
Attorney David J. Van Lieshout  
P.O. Box 186  
Little Chute, WI 54140-0186

This instrument drafted by  
David J. Van Lieshout, Attorney at Law  
P.O. Box 186  
Little Chute, WI 54140-0186



Declaration of Restrictions

In Re: All of Lots One (1), and Two (2), and the West Ten (10) feet of Lot Three (3), in Block One (1), of JOHNSON'S ADDITION, City of Appleton, Outagamie County, Wisconsin.

STATE OF WISCONSIN )  
                       )  
COUNTY OF OUTAGAMIE ) ss

WHEREAS, Tom's Drive-In Central, Inc., a Wisconsin Corporation, is the owner of the above described property.

WHEREAS, one or more petroleum discharges have occurred on this property. Benzene contaminated groundwater above ch. NR 140, Wis. Adm. Code, enforcement standards existed on this property at the following location(s) on the following date(s): at monitoring well MW-1 on August 18, 1999 with 45 micrograms per liter (ug/l) and at MW-3 on May 6, 1996 with 120 ug/l. The location of the monitoring wells is provided on Exhibit 1 attached and made part of this restriction.

WHEREAS, it is the desire and intention of the property owner to impose on the property restrictions which will make it unnecessary to conduct further groundwater or soil remediation activities on the property at the present time.

WHEREAS, natural attenuation has been approved by the Department of Natural Resources to remediate groundwater contamination exceeding NR 140 groundwater standards within the boundaries of this property.

WHEREAS, construction of wells where the water quality does not comply with drinking water standards in ch. NR 809, Wis. Adm. Code, is restricted by chs. NR 811 and NR 812, Wis. Adm. Code. Special well construction standards or water treatment requirements, or both, or well construction prohibitions may apply.

NOW THEREFORE, the owner hereby declares that all of the property described above is held and shall be held, conveyed or encumbered, leased, rented, used, occupied and improved subject to the following limitation and restrictions:

Anyone who proposes to construct or reconstruct a well on this property is required to contact the Department of Natural Resources' Bureau of Drinking Water and Groundwater, or its successor agency, to determine what specific requirements are

OUTAGAMIE COUNTY  
RECEIVED FOR RECORD

MAY 12 2000

AT 11 O'CLOCK A.M. P.M.  
JANICE FLEISZ  
REGISTER OF DEEDS

Recording Area

Name and Return Address

Christopher E. Sitzmann  
Sitzmann & Associates Ltd.  
103 E. College Ave., #301  
Appleton, WI 54911

Parcel Identification Number (PIN)

applicable, prior to constructing or reconstructing a well on this property. No well may be constructed on this property unless applicable requirements are met.

If construction is proposed on this property that will require dewatering, or if groundwater is to be otherwise extracted from this property, while this groundwater use restriction is in effect, the groundwater shall be sampled and analyzed for contaminants that were previously detected on the property and any extracted groundwater shall be managed in compliance with applicable statutes and rules.

This restriction is hereby declared to be a covenant running with the land and shall be fully binding upon all persons acquiring the above-described property whether by descent, devise, purchase or otherwise. This restriction benefits and is enforceable by the Wisconsin Department of Natural Resources, its successors or assigns. The Department, its successors or assigns, may initiate proceedings at law or in equity against any person or persons who violate or are proposing to violate this covenant, to prevent the proposed violation or to recover damages for such violation.

Any person who is or becomes owner of the property described above may request that the Wisconsin Department of Natural Resources or its successor issue a determination that one or more of the restrictions set forth in this covenant is no longer required. Upon the receipt of such a request, the Wisconsin Department of Natural Resources shall determine whether or not the restrictions contained herein can be extinguished. If the Department determines that the restrictions can be extinguished, an affidavit, attached to a copy of the Department's written determination, may be recorded to give notice that this deed restriction, or portions of this deed restriction, are no longer binding.

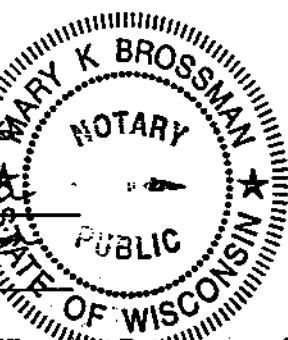
By signing this document, Mark Grishaber asserts that he/she is duly authorized to sign this document on behalf of Tom's Drive-In Central, Inc.

IN WITNESS WHEREOF, the owner of the property has executed this Declaration of Restrictions, this 9<sup>th</sup> day of May, 2000.

Signature: M. L. G.  
Printed Name: Mark Grishaber  
Title: President

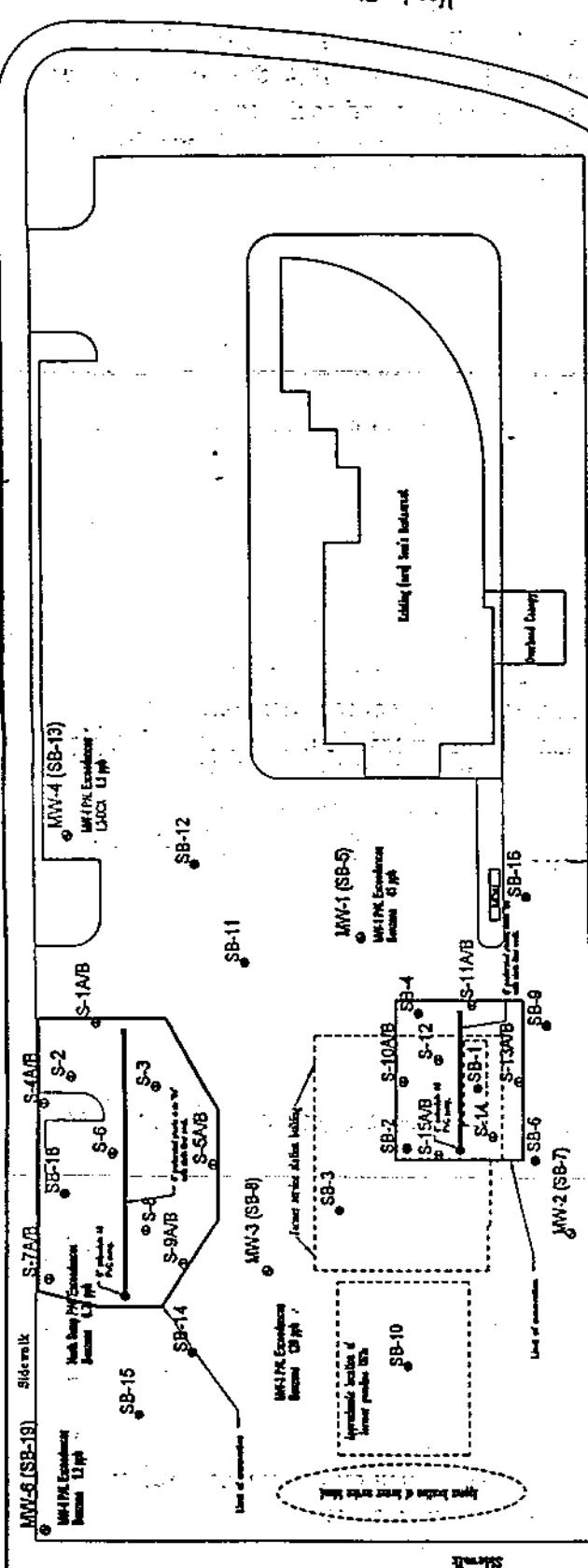
Subscribed and sworn to before me  
this 9<sup>th</sup> day of May, 2000

Mary K. Grossman  
Notary Public, State of Wisconsin  
My commission 01/12/03



This document was drafted by the Wisconsin Department of Natural Resources based on information provided by Environmental Compliance Consultants, Inc.

East Wisconsin Avenue



Laver Street

Meade Street

East Summer Street

1201 EWP

MW-3 Locations of soil borings.

MW-3 (SB-4) Locations of wells.

SB-3  
S-15A/B  
Locations of excavation targets. Many but targets were taken at the same locations as the wells and therefore appear under the wells section.

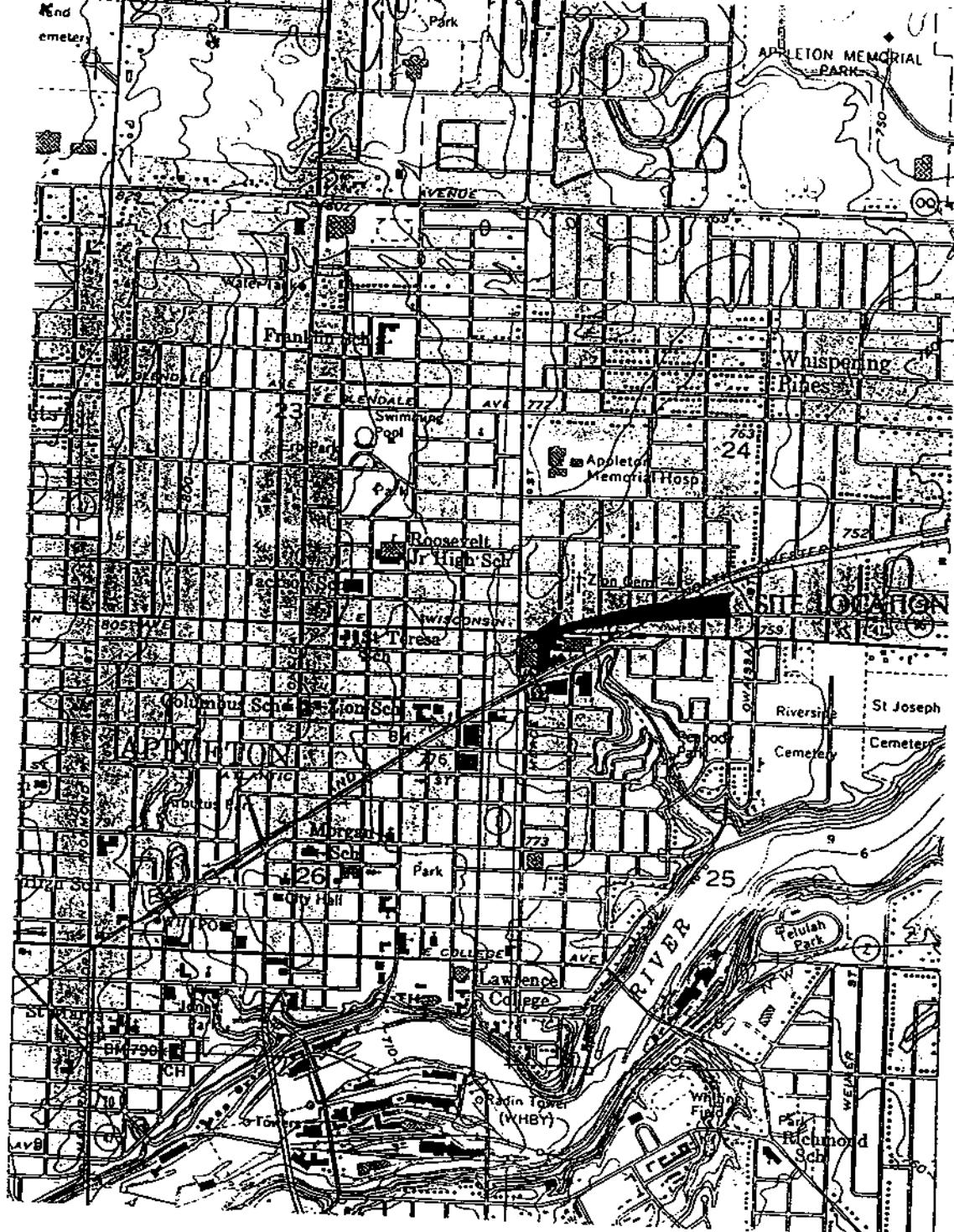
Line of excavation

Location of stump and drain site.

EXHIBIT 1

Groundwater Contamination Above P

Scale: 1 ft = 30 ft (approx)	Date: December 6, 1989
Environmental Compliance Consultants, Inc. By: C. Esold	



NOTE: Taken from the  
Appleton, Wisconsin  
 7.5 Minute USGS  
 Topographic Map (1984)



ION'S DRIVE-IN - APPLETON, WISCONSIN

FIGURE 1  
 SITE LOCATION MAP

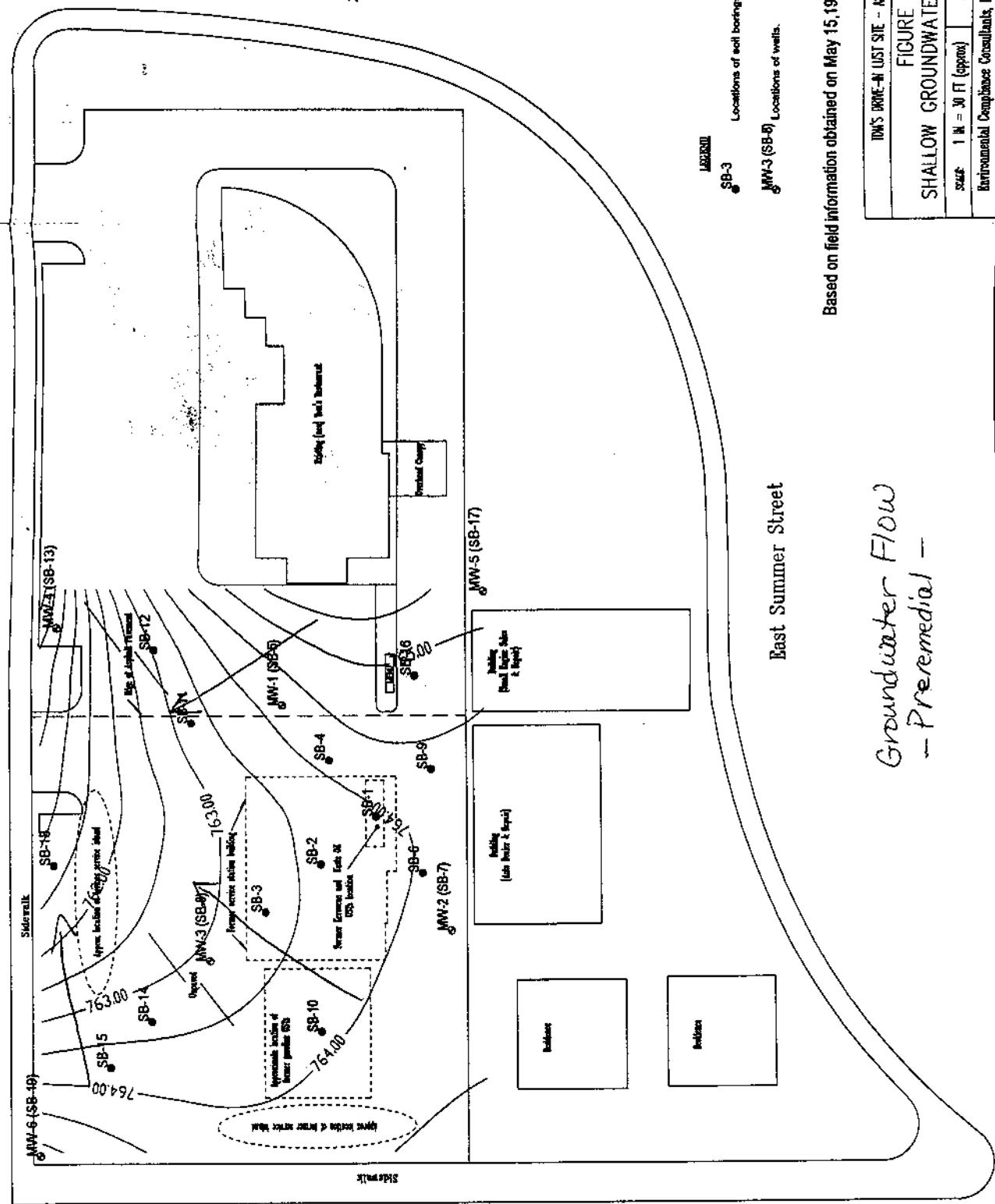
SCALE: 1" = 2000'

DATE: 12-31-94

Environmental Compliance Consultants, Inc.

BY: Dennis C. Creel

East Wisconsin Avenue



Based on field information obtained on May 15, 1996.

MW-3 (SB-5) Locations of wells.

East Summer Street

MW-3 (SB-5)

SB-3  
SB-3  
MW-3 (SB-5) Locations of wells.

## Groundwater Flow - Premedia -

FIGURE 3

SHALLOW GROUNDWATER SURFACE MAP

scale: 1 in = 30 ft (topographic)

date: MAY 16, 1996

by: C. Erdahl

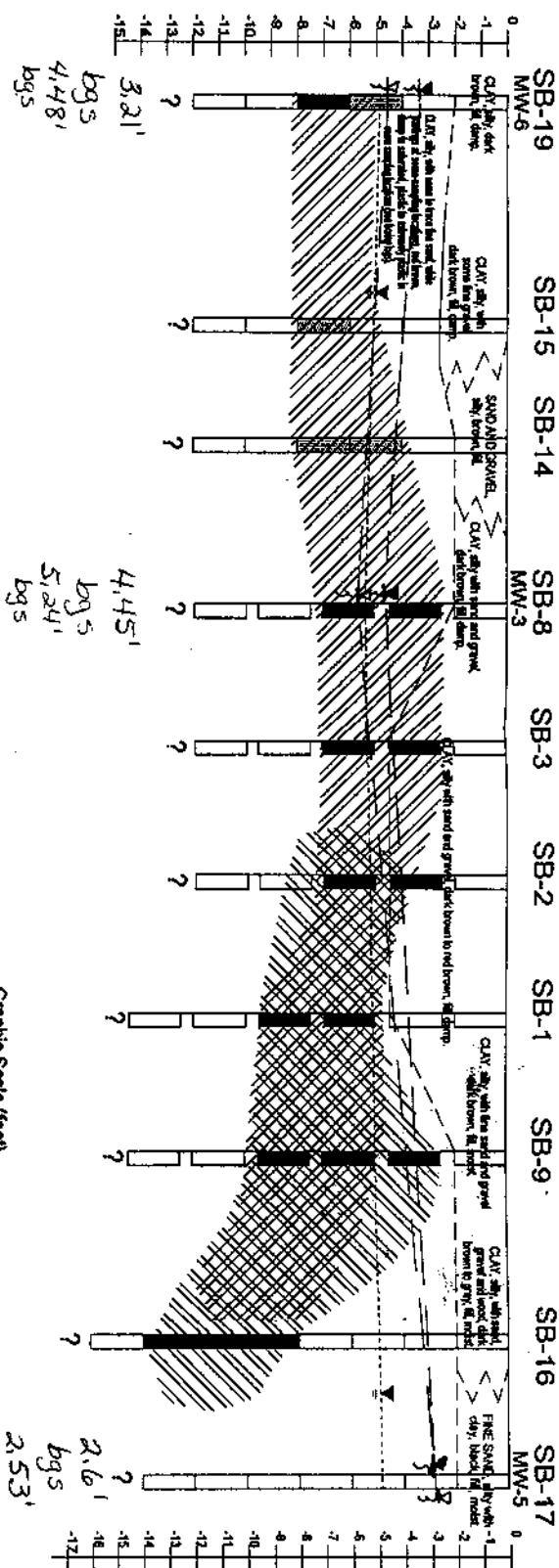
Environmental Compliance Consultants, Inc.





# A

# A'



### CROSS SECTION LOCATION

### LEGEND

Graphic Scale (feet)  
Vert. Exag. = 4X  
0 5 10 15 20

— — — = Seasonal high water table at MW-6 & MW-5, based on 5/8/96 data, feet bgs.

— — = Seasonal high water table at MW-6 & MW-5, based on 5/8/96 data, feet bgs.

TOM'S DRIVE-IN - W. WISCONSIN AVENUE, APPLETON, WI

FIGURE 5

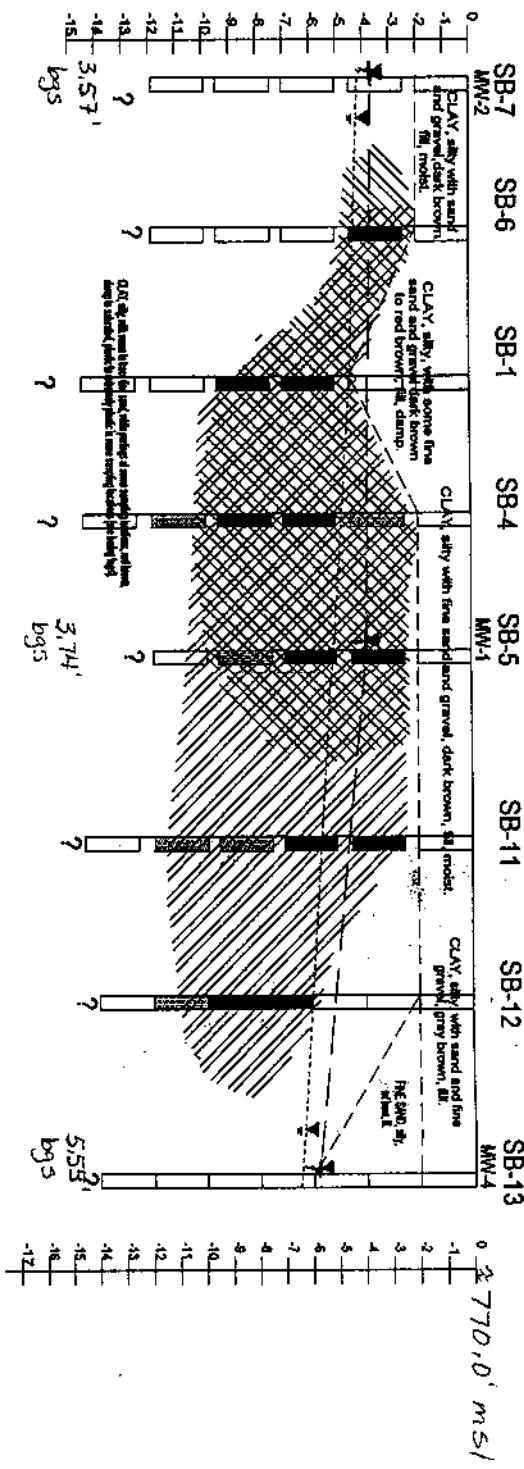
### CROSS SECTION A-A'

measured on May 31, 1996.

SCALE: See Graphic Scale

DATE: 18 JUNE 96

# B



## LEGEND

**Soil Sample:** Indicates High Levels of Contamination in the Sample (> 100 PID Units)

**Soil Sample:** Indicates Moderate Levels of Contamination in the Sample (Between 25 and 100 PID Units)

**Soil Sample:** Indicates Low Levels of Contamination in the Sample (< 25 PID Units)

Approximated extent of contamination in the sample

Groundwater

Depth (feet)

Time (years)

TOM'S DRIVE-IN - W. WISCONSIN AVENUE, APPLETON, WI

CROSS SECTION B-B'



Groundwater

Depth (feet)

Time (years)

FIGURE 5A

Environmental Compliance Consultants, Inc.

1996

Measurement May 31, 1996

# B'